

Not for Publication

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN CALIFORNIA GLAZIERS,
ARCHITECTURAL METAL AND GLASS
WORKERS PENSION PLAN, et al,

Plaintiff(s),

v.

BRYN ARCHITECTURAL METAL &
GLASS INC., a California corporation,

Defendant.

No. CV 10-4655 SBA (NJV)

**ORDER RE PLAINTIFFS' MOTION
FOR DEFAULT JUDGMENT**
(Docket No. 23)

On October 6, 2011, Plaintiffs Northern California Glaziers, Architectural Metal and Glass Workers Pension Plan, District Council 16 Northern California Health and Welfare Trust Fund, Glaziers Individual Account Retirement Plan, District Council 16 Northern California Journeyman and Apprentice Training Trust Fund, its Joint Board of Trustees, and individual Trustees Douglas Christopher, John Maggiore, and Marian Bourboulis, I.U.P.A.T. Union and Industry National Pension Fund, its Joint Board of Trustees, and individual Trustee James Williams, and District Council No. 16, International Union of Painters and Allied Trades (collectively, "Plaintiffs") requested this Court to prepare its report and recommendation without conducting a hearing. Doc. No. 29. Upon submission and review of the papers, the Court deemed this matter suitable for determination without a hearing.

Before the Court can decide this matter, however, it must resolve discrepancies between the amounts Plaintiffs allege Defendant owes in their motion for default judgment and the amounts stated in Plaintiffs' attorney's declaration. *Compare* Doc. No. 23 at 1-2 *with* Doc. No. 24 (Williams Decl.) at 6 ¶¶ 22 & 16, Ex. J. The Court therefore **ORDERS** Plaintiffs to submit

1 additional information regarding the amounts listed in the calculation of damages. All
2 calculations are to be set forth in a clear and explanatory chart. For each category below,
3 Plaintiffs must **recalculate**, **explain**, and **detail** the calculations and sources they used, including
4 any payments by Defendant:

5 **1. Account 1 Contributions Owed:**

6 Plaintiffs' motion for default judgment for Account 1 owing contributions are listed as
7 \$52,539.63 in Williams' declaration. Williams Decl. at 5-6 ¶ 22. However, when adding the
8 numbers provided by the Trust fund manager, the Court arrives at a total of \$56,023.05. Doc.
9 No. 23 at 1. Moreover, explain and clarify the discrepancy between the contribution due,
10 amount paid, and balance due figures listed in Exhibit J regarding Account 1 for the month
11 November 2010. Verify and recalculate all other months.

12 **2. Total for Accounts 1 & 2 Owed:**

13 Recalculate the total, per month, and overall contributions owed by Defendant to date
14 reflecting any and all payments made. Based on the amounts provided in the motion for default
15 judgment (Doc. No. 23 at 1-2) the Court calculates the total amount for Accounts 1 & 2 owed is
16 \$108,467.79. This is \$10 less than the \$108,477.79 sub-total requested in Plaintiffs' motion for
17 default judgment. Doc. No. 23.

18 **3. Interest Amounts For Accounts 1 & 2:**

19 The interest amounts listed by Williams in Exhibit J differ from those Plaintiffs used to
20 calculate totals owed in the motion for default judgment. Doc. No. 23. For example regarding
21 Account 2, the month of June 2010 interest amount listed in Exhibit J is \$231.13, however it is
22 \$232.83 in the motion. Doc. No. 23 at 2. Update total interest owed for both accounts to the
23 present.

24 **4. Liquidated Damages For Accounts 1 & 2:**

25 Recalculate liquidated damages for each month in both accounts. Address why totals
26 vary in the motion for default judgment (Doc. No. 23) and Williams' declaration (at 6 ¶ 22), and
27 show calculations to explain computation and discrepancies. Also, explain why some months
28

1 are calculated at 10% and others at 20%.

2 Plaintiffs are to clarify and explain their calculations and the discrepancies in the manner
3 described above. The requested information is to be submitted no later than **5 court days** from
4 the date of this order.

5
6 IT IS SO ORDERED.

7 Dated: October 17, 2011



NANDOR J. VADAS
United States Magistrate Judge